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| APPLICATION NO.                                                                                 | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO. |
|-------------------------------------------------------------------------------------------------|-------------|----------------------|----------------------------|------------------|
| 09/321,939                                                                                      | 05/28/1999  | WAYNE J. CARR        | INTL-0208-US               | 7267             |
| 7590 06/03/2004                                                                                 |             |                      |                            |                  |
| TIMOTHY N TROP<br>TROP PRUNER HU AND MILES PC<br>8554 KATY FREEWAY STE 100<br>HOUSTON, TX 77024 |             |                      | EXAMINER<br>SALCE, JASON P |                  |
|                                                                                                 |             |                      | ART UNIT<br>2611           | PAPER NUMBER     |
|                                                                                                 |             |                      | DATE MAILED: 06/03/2004    |                  |

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/321,939

**Applicant(s)**

CARR, WAYNE J.

**Examiner**

Jason P Salce

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 24-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.                                                             | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 3/29/04 have been fully considered but they are not persuasive.

Applicant's only argument is that the examiner has not provided proper motivation for the combination of the ATVEF specification with Matthews and Freeman.

Applicant states that the ATVEF specification teaches announcements and states that only one announcement at a time is active. The examiner disagrees and specifically cites the top of page 6, which states "Announcements are sent on...". Additionally, the examiner fails to see any restriction to the transmission of only one announcement. Furthermore, the examiner fails to see any limitation in the claims that specify the need for an announcement being active. The claims limitation only discuss that announcements are transmitted and that a special indication specifies the location of an announcements.

Applicant also states that the ATVEF specification teaches away from such special indications, because the ATVEF specification discloses handling the active announcements, not storing announcements at location indicated by special indication. The examiner notes that the claim limitations does perform any type of storing of announcements, and only discloses transmission and location of announcements. The limitation, "location of announcements" is broad, and does not specify if announcements are located in storage or in the incoming television channels.

Therefore, the examiner has provided the proper motivation for the combination of Matthews, Freeman and the ATVEF specification, therefore the rejection is repeated below, and this Office Action is made Final.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10, 15-18, 27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 10, Matthews discloses communicating television content and enhancement data (see supplemental content servers 52 and 84 in Figure 3) including announcements (Column 3, Lines 61-63, Column 4, Lines 27-32, Figure 3, Figure 5 for an example of announcement ("More" hyperlink) data, and Column 9, Lines 60-64).

Matthews also discloses receiving the television content associated with multiple television channels over a transport medium (Column 5, Lines 44-49 and Column 6, Lines 34-35).

Matthews also discloses receiving enhancement data (Column 7, Lines 35-37) associated with the multiple television channels (Column 7, Lines 9-13) sent on a separate delivery mechanism (Column 7, Lines 64-67 and Column 8, Lines 1-5), and

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that announcements in the enhancement data are expected at a first location (Column 8, Lines 24-35).

Matthews also discloses receiving one or more special indications at the first location indicating that announcements are available on the separate delivery mechanism (see the Seinfeld icon in Figure 7 and Column 12, Lines 8-24), which describes accessing supplemental content when the program is not currently being broadcast), the one or more special indications identifying locations of the announcements (web pages) associated with particular television channels (Column 7, Lines 22-30, Column 8, Lines 10-20, the Seinfeld icon in Figure 7 and Column 12, Lines 9-24).

Matthews also discloses tuning to an audio/video program (Column 8, Lines 24-31).

Matthews also discloses determining a location of an announcement based on a special indication associated with a currently tuned television channel (Column 7, Lines 22-30 and Column 8, Lines 10-20).

Matthews fails to disclose that the announcement data associated with the tuned audio/video content indicates that enhancement data is being transmitted. The ATVEF teaches that announcements indicate the location that the client can listen in on to receive the content and triggers, where the content is audio/video content (see Page 2, "Using Enhanced TV", second paragraph). The ATVEF specification also discloses that an announcement provides a description of the enhancement data and how it is being transmitted to a receiver (see page 5, "Announcements" and page 6-7 for the

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description of the data contained is an announcement transmitted to a receiver). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the announcement data, as taught by Matthews, using the enhanced announcement data with data indicating when specific data is being transmitted, as taught by the ATVEF specification, for the purpose of providing a single public standard for delivering interactive television experiences that can be authored once using a variety of tools (Page 2, see "Introduction").

Claim 27 corresponds to claim 10, with the additional limitation of receiving the predetermined indication at a first network address and port and wherein identifying the location of the announcement comprises identifying a second, different network address and port. The ATVEF teaches that announcements are sent on a well-known address and port and that announcements are available in a longer form to specific a different IP address and port for the trigger stream (indication) (see "7 Announcements" section in pages 5-7).

Referring to claim 15, see rejection of claim 10. Also note the device in Figure 4.

Claim 16 corresponds to claim 15, with the additional limitation of the ancillary information is according to an ATVEF specification. The examiner notes that by combining Matthews with the functionality of the ATVEF specification, Matthews can now transmit enhanced data to a receiver according to the ATVEF specification.

Claim 17 corresponds to claim 16, with the additional limitation of the announcements being expected at an announcement IP address and port (see Page 6, Lines 1-2 of the ATVEF specification).

Claim 18 corresponds to claim 15, with the additional limitation of the first and second devices may include different parts of a software routine (Column 1, Lines 55-61 of Matthews).

Referring to claims 29, see rejection of claim 17.

3. Claims 1-7, 11-14, 24-25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Freeman et al. (U.S. Patent No. 6,181,334) in further view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 1, Matthews discloses communicating television content and enhancement data (see supplemental content servers 52 and 84 in Figure 3) including announcements (Column 3, Lines 61-63, Column 4, Lines 27-32, Figure 3, Figure 5 for an example of announcement ("More" hyperlink) data, and Column 9, Lines 60-64).

Matthews also discloses receiving the television content associated with multiple television channels over a transport medium (Column 5, Lines 44-49 and Column 6, Lines 34-35).

Matthews also discloses receiving enhancement data (Column 7, Lines 35-37) associated with the multiple television channels (Column 7, Lines 9-13) sent on a separate delivery mechanism (Column 7, Lines 64-67 and Column 8, Lines 1-5), and that announcements in the enhancement data are expected at a first location (Column 8, Lines 24-35).

Matthews also discloses receiving one or more special indications at the first location indicating that announcements are available on the separate delivery

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mechanism (see the Seinfeld icon in Figure 7 and Column 12, Lines 8-24), which describes accessing supplemental content when the program is not currently being broadcast), the one or more special indications identifying locations of the announcements (web pages) associated with particular television channels (Column 7, Lines 22-30, Column 8, Lines 10-20, the Seinfeld icon in Figure 7 and Column 12, Lines 9-24).

Matthews also discloses determining a location of an announcement based on a special indication associated with a currently tuned television channel (Column 7, Lines 22-30 and Column 8, Lines 10-20).

Matthews also discloses processing the announcement of the currently tuned television channel (see browser 106 in user interface unit 90 of Figure 4 and Column 8, Lines 62-66).

Matthews fails to teach multiplexing the television content and the enhancement data before transmitting the data over a network. Freeman teaches multiplexing digital signals (various video and data signals) over an interactive cable television system (Column 5, Lines 49-52 and Lines 65-67 and Column 6, Lines 1-2, 8-24, 31-36, and 45-52 and Column 7, Lines 1-19, 23-27). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interactive entertainment system, as taught by Matthews, using the multiplexer, as taught by Freeman, for the purpose of maximizing the number of simultaneously transmittable signals (Column 5, Lines 56-58).



Matthews and Freeman both fail to teach indicating at least some of the enhancement data is being transmitted. The ATVEF teaches that announcements indicate the location that the client can listen in on to receive the content and triggers, where the content is audio/video content (see Page 2, "Using Enhanced TV", second paragraph). The ATVEF specification also discloses that an announcement provides a description of the enhancement data and how it is being transmitted to a receiver (see page 5, "Announcements" and page 6-7 for the description of the data contained in an announcement transmitted to a receiver). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the multiplexed announcement data, as taught by Matthews and Freeman, using the enhanced announcement data with data indicating when specific data is being transmitted, as taught by the ATVEF specification, for the purpose of providing a single public standard for delivering interactive television experiences that can be authored once using a variety of tools (Page 2, see "Introduction").

Claim 2 corresponds to claim 1, with the additional limitation of processing announcements according to an ATVEF specification. The examiner notes that by combining Matthews and Freeman with the functionality of the ATVEF specification, Matthews can now transmit enhanced data to a receiver according to the ATVEF specification.

Claim 3 corresponds to claim 1, with the additional limitation of the one or more special indications are received on a separate delivery mechanism. Matthews teaches this limitation in Column 7, Lines 64-67 and Column 8, Lines 1-5).

Claim 4 corresponds to claim 1, with the additional limitation of receiving the enhancement data over the separate delivery mechanism (as disclosed in the rejection of claim 3) includes receiving the enhancement data on a data-only transport stream program. The Advanced Television Enhancement Forum Specification teaches that the enhancements comprise announcements that are processed and delivered over a broadcast network and can receive content addresses and trigger addresses (Page 2, see "Using Enhanced TV"). Since a trigger address (enhancement data) is separate from the actual address of the content, it is inherent that when a trigger address is used that a data-only transport stream program is acquired.

Claim 5 corresponds to claim 1, with the additional limitation of receiving enhancement data over a separate communications link. Matthews teaches this limitation in Figure 3 by showing a second network where enhanced content can also be sent from a separate ISP (also see Column 7, Lines 64-67 and Column 8, Lines 1-5).

Claim 6, corresponds to claim 1, with the additional limitation of receiving the announcements at locations different from the first location. Matthews discloses this limitation in Column 4, Lines 30-33 (distributing to multiple subscribers).

Claim 7 corresponds to claim 6, with the additional limitation of receiving announcements at an Internet protocol address and port different from an expected announcement address and port. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers").

Referring to claim 11, see rejection of claim 1.

Claim 12 corresponds to claim 11, with the additional limitation of multicasting the enhancement data and predetermined indications to a plurality of receivers. The limitation is taught in Column 7, Lines 9-13 of Matthews and also on page 2, in the "Using Enhanced TV" section of the ATVEF specification.

Claim 13 corresponds to claim 11, with the additional limitation of enhancement data adheres to an Advanced Television Enhancement Forum Specification. The examiner notes that by combining Matthews and Freeman with the functionality of the ATVEF specification, Matthews can now transmit enhanced data to a receiver according to the ATVEF specification.

Claim 14 corresponds to claim 13, with the additional limitation of a first location including an IP address and port at which announcements are expected to arrive (see page 6 of the ATVEF specification for an announcement being sent by IP address and port number).

Claim 24 corresponds to claim 1, with the additional limitation of a first location containing a first network address and port, and that announcements at a second network address and port are different from the first. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers").

Claim 25 corresponds to claim 1, with the additional limitation of receiving one or more special indications at the first location (see Figure 3 of Matthews) wherein the first location has a network address and port. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use an IP addresses and ports for the data stream and trigger stream (see Page 6, Lines 1-2 for transmitting an announcement by IP address and port number), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers").

Claim 28 corresponds to claim 11, see rejection of claim 25.

4. Claims 8, 9 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (U.S. Patent No. 6,025,837) in view of Smith et al. (U.S. Patent No. 5,559,625) in further view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 8, Matthews discloses a receiver adapted to tune to an audio/video portion over a transport medium (Column 8, Lines 21-31 and Figure 4). Matthews also discloses a device adapted to receive announcement data associated with the tuned audio/video content directed to a first location (Column 8, Lines 31-35), the special announcement indicating availability of the announcement data associated with the tuned audio/video program (Column 7, Lines 22-30, Column 8, Lines 10-20, the Seinfeld icon in Figure 7 and Column 12, Lines 9-24).

Matthews teaches responding to a special announcement, but fails to teach a controller adapted to redirect the announcement data to a second location. Smith teaches re-directing traffic in a television network (Column 1, Lines 27-30) from a

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second location to a first location (Column 8, Lines 62-67 and Column 9, Lines 1-9). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interactive entertainment system, as taught by Matthews, using the method of re-directing data in a television network, as taught by Smith, for the purpose of increasing the amount of re-use of information transmission wavelengths within a network, while not incurring the disadvantage of multipath effects which can otherwise arise in wavelength re-use (Column 1, Lines 45-49), and provide a failure protection means for ensuring successful transmission of television data over a network (Column 8, Lines 62-67 and Column 9, Lines 1-5).

Matthews and Smith fail to teach announcements indicating enhancement data is being transmitted. The ATVEF teaches that announcements indicate the location that the client can listen in on to receive the content and triggers, where the content is audio/video content (see Page 2, "Using Enhanced TV", second paragraph). The ATVEF specification also discloses that an announcement provides a description of the enhancement data and how it is being transmitted to a receiver (see page 5, "Announcements" and page 6-7 for the description of the data contained in an announcement transmitted to a receiver). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the announcement data (which can be redirected), as taught by Matthews and Smith, using the enhanced announcement data with data indicating when specific data is being transmitted, as taught by the ATVEF specification, for the purpose of providing a single public standard

for delivering interactive television experiences that can be authored once using a variety of tools (Page 2, see "Introduction").

Claim 9 corresponds to claim 8, with Matthews and Smith teaching all the limitations in claim 8, where claim 9 now includes the additional limitation of a second location including an address and port for receiving announcements according to an Advanced Television Enhancement Forum Specification. The ATVEF specification teaches this limitation at Page 6, Lines 1-2 for an announcement having an IP address and port number.

Claim 26 corresponds to claim 8, with the additional limitation of the first location comprising a first network address and port and the second location comprises a second, different network address and port. The Advanced Television Enhancement Forum Specification teaches that a broadcaster may use different IP addresses and ports for the data stream and trigger stream (Page 7, see "Data Delivery Over IP Multicast"), and that the trigger notifies a user of enhanced content availability (Page 7, see "Triggers").

### ***Conclusion***

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 28, 2004

  
HAT TRAN  
PATENT EXAMINER